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FEDERAL COMMUNICATIONS COMMISSION
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EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
Filing Counter TW-A325
445 12th Street, S.W.,
Washington, DC 20554

**Re: In the Matter of Communications Assistance for Law
Enforcement Act, CC Docket No. 97-213**

Dear Ms. Salas:

In response to recent *ex parte* submissions, AT&T Corp. ("AT&T") is providing additional information to supplement the record in this proceeding. AT&T submits this information in its capacity as a supplier of local and wireless telephone services.

Compliance Deadline. AT&T agrees with the Cellular Telecommunications Industry Association's ("CTIA") proposal to create a comprehensive compliance deadline of December 31, 2001. As numerous parties -- including AT&T -- have noted in previous filings, a bifurcated compliance schedule is unnecessarily inefficient and dramatically increases the cost of compliance.¹ A combined compliance date for both the "core" J-STD-025 and any punch list items that the Commission may determine are covered by CALEA would permit vendors to dedicate engineers and resources to a single, comprehensive solution, rather than have to work on the same project essentially twice. Similarly, a comprehensive solution would require AT&T to undergo a CALEA-related installation (with its attendant tests and de-bugging procedures) only once. AT&T respectfully requests that the Commission adopt CTIA's

¹ See, e.g., Comments of AT&T Corp., CC Docket No. 97-213, at 2 & 8 (filed on May 8, 1998).

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proposal and provide a unified deadline so that carriers can implement CALEA in a cost-effective and efficient fashion. In addition, based on AT&T's extensive participation in the effort that produced the last CALEA standard, a 180-day standards process is extraordinarily ambitious; it is important that the Commission leave some flexibility in the implementation schedule so as to provide limited incentive for delays on the part of either industry or law enforcement.

Post-Cut-Through Dialed Digits. The overwhelming majority of commenting parties urged the Commission to reject the Federal Bureau of Investigation's ("FBI") request that J-STD-025 be modified to require provision of post-cut-through dialed digits. As these parties have clearly demonstrated, extraction of dialed digits raises troubling privacy concerns. It is impossible to distinguish digits dialed for call-setup purposes from those dialed to perform other functions (e.g., a credit card number or bank account personal identification number). Moreover, as the aggregated price estimates provided by several manufacturers demonstrate, the costs for developing this punch list item nearly doubles that of any other feature requested by the FBI.² Accordingly, the Commission should find that the extraction of post-cut-through dialed digits is not required by CALEA.

If the Commission nonetheless adopts its tentative conclusion on post-cut-through digits,³ AT&T urges the Commission to exercise great care in delimiting the scope of any such decision. First, the Commission should clarify that its decision only applies to post-cut-through *dialed* digits and does not apply to other types of call completion that are not captured by dual-tone multi-frequency ("DTMF") receivers.

For example, since the telephone was first invented, phone calls have been set up through human operators. Today, a subscriber can still request that a directory assistance operator, after providing the requested phone number, connect the subscriber to that number. Historically, law enforcement has never had pen-register access to dialing information in those circumstances (the information is of course available when the investigation is extensive and serious enough to justify a full Title III wiretap). Moreover, law enforcement has never argued that the absence of that information has frustrated its surveillance capability. Although dedicated DTMF receivers are costly to install, they do provide a known solution for post-cut-through *dialed* digits. Thus, the Commission should include very clear language to ensure that its decision does not

² Public Notice, *Comment South on CALEA Revenue Estimates of Five Manufacturers*, CC Docket No. 97-213, DA 99-863, at 4 (released on May 7, 1999).

³ See Further Notice of Proposed Rulemaking, *In the Matter of Communications Assistance for Law Enforcement Act*, FCC 98-282, CC Docket No. 97-213, at ¶ 128.

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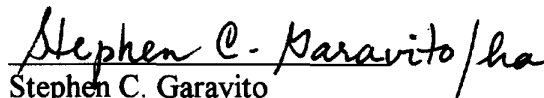
unintentionally suggest that carriers must develop solutions for *non-dialed* post-cut-through dialing information, which cannot be captured by tone receivers.

Second, as AT&T has noted, the dedicated DTMF receiver solution is expensive in the extreme. Even recognizing the flaws within the aggregated price estimates provided by the five manufacturers, that information demonstrates that the estimated price for post-cut-through digits -- more than \$120 million -- is nearly double that of the next most expensive punch list item, "party hold, join, drop" (\$64 million). AT&T is concerned that the Commission may be giving less weight to this expense because of a widespread assumption that the FBI will bear some or all of the cost of deploying DTMF receivers. It is certainly true that the FBI bears responsibility for funding any wiretap capacity increases on telephone networks. Because DTMF receivers increase pen register capacity on a one-for-one basis, such receiver is a classic example of equipment purchased to increase capacity. But, so far as AT&T is aware, there has been no formal government determination that the FBI is obliged to fund DTMF capacity increases. The Commission should make clear its expectation that DTMF receivers will be funded by law enforcement if it requires that a vast number of new DTMF receivers be added to local wireline or wireless telephone networks for the exclusive purpose of supporting law enforcement. The Commission should recognize that carriers are entitled to reimbursement by law enforcement for the dedicated use of DTMF receivers on a surveilled line.

We hope this information is helpful to the Commission in its deliberations. Pursuant to 47 C.F.R. § 1.1206, an original and two copies of this letter are enclosed for inclusion in CC Docket No. 97-213. Please do not hesitate to contact us if you have any questions.

Sincerely,

AT&T CORP.


Stephen C. Garavito
Martha Lewis Marcus

AT&T WIRELESS SERVICES
Roseanna DeMaria

Ms. Magalie Roman Salas

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